

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

DCO-114

No. 20-2177

UNITED STATES OF AMERICA

v.

FREDERICK H. BANKS,
Appellant

(W.D. Pa. No. 2-15-cr-00168-001)

Present: RESTREPO, PORTER and SCIRICA, Circuit Judges

1. Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.
2. Response filed by Appellee to Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.
3. Response filed by Appellant to Clerk's Submission for Possible Dismissal Pursuant to Jurisdictional Defect.

Respectfully,
Clerk/clw

ORDER

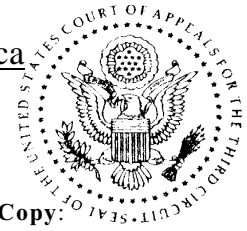
In this appeal, the defendant mailed a notice of appeal the day before he was scheduled to be sentenced. He purported to appeal from the not-yet-announced sentence. Because his sentencing was delayed, the preemptive notice of appeal was received by the district court before sentencing. The defendant later filed a new notice of appeal after the entry of final judgment.

The appropriate time for filing a direct-criminal appeal is after the entry of judgment of sentence. See, e.g., Flanagan v. United States, 465 U.S. 259, 263 (1984); see also Fed. R. Crim. P. 4(b)(1)(A)(i). Premature appeals are “dismissible” where, as here, the government requests dismissal in time for the defendant to “renew the appeal while it will still be effective.” See United States v. Hashagen, 816 F.2d 899, 901–06 (3d Cir. 1987).

The appeal is therefore DISMISSED.

By the Court,

s/Anthony J. Scirica
Circuit Judge



A True Copy:

Patricia A. Dodszeuweit

Patricia S. Dodszeuweit, Clerk
Certified Order Issued in Lieu of Mandate

Dated: October 8, 2020
CLW/cc: Laura S. Irwin, Esq.
Marvin Miller, Esq.